

2014 WL 4165001 (Del.Ch.) (Trial Pleading)
Chancery Court of Delaware.

In the Matter of the Estate of Bobby J. FREEMAN, Deceased.

No. 9900-MA.
August 20, 2014.

Answer to Caveat Against the Allowance of an Instrument as a Will and Complaint to Rescind Transfer of Property

Ferry, Joseph & Pearce, P.A., Timothy S. Ferry (#5749), 824 N. Market Street, Suite 1000, P.O. Box 1351, Wilmington, DE 19899, 302-575-1555, Tferry @ferryjoseph.com, for Respondent.

Respondent, Cheryl Springs, ("Respondent") as personal representatives of the estate of Bobby J. Freeman ("Decedent"), hereby answer the Caveat Against the Allowance of an Instrument as a Will and Complaint to Rescind Transfer of Property as follows:

1. Caveator Minnie Ellis resides at 117 Portside Drive, Bear, Delaware 19702. Ms. Ellis is the sister of Bobby J. Freeman.

ANSWER: Admitted.

2. Caveator Maryetta Freeman resides at 307 Evergreen Drive, Newark, DE 19702. Ms. Freeman is the niece of Bobby J. Freeman.

ANSWER: Admitted.

3. Caveator Deshaun Freeman resides at 1811 Apt-D, Dayton Street, North Charleston, SC 29405. Dushaun Freeman is the biological son of Bobby J. Freeman.

ANSWER: Admitted.

4. Cheryl Springs ("Springs") resides at 220 Tralee Drive, Middletown, Delaware 19709.

ANSWER: Admitted.

5. On or about December 14, 2005, Bobby J. Freeman, executed a Will. A copy of that Will is attached hereto as Exhibit A and incorporated by reference herein.

ANSWER: Admitted that the Will dated December 14, 2005 attached to Caveators' Complaint as Exhibit A appears to bear the purported signature of Decedent. However, Respondent is without sufficient information to admit or deny that the December 14, 2005 Will was, in fact, executed by Decedent.

6. The Will dated December 14, 2005, names Minnie Ellis and Michael Mitchell as beneficiaries of Mr. Freeman's Estate. The Will names Randee Briggs, Stephen Briggs, and Maryetta Freeman as contingent beneficiaries of Mr. Freeman's estate. The Will names Mr. Freeman's sister, Minnie Ellis, as the personal representative of the Estate.

ANSWER: Admitted that the purported December 14, 2005 Will names Minnie Ellis and Michael Mitchell as beneficiaries and Randee Briggs, Stephen Briggs and Maryetta Freeman as contingent beneficiaries of Decedent's Estate. Admitted that the purported December 14, 2005 Will names Minnie Ellis as Personal Representative of the Estate.

7. Upon information and belief, at some time in the summer of 2013 Respondent Springs met Bobby J. Freeman on the telephone when he called the alarm company where she worked in order to schedule a repair. (*See* Affidavit of Maryetta Freeman, Exhibit B.)

ANSWER: Denied. By way of further answer, Respondent met Decedent in 2011. Respondent specifically denies any and all allegations contained in Maryetta Freeman's Affidavit attached as Exhibit B to Caveators' Complaint.

8. Soon thereafter, it is believed that Respondent began a secret relationship of some nature with Mr. Freeman.

ANSWER: Denied as stated. Admitted that Respondent began a relationship with Decedent, but specifically denied that the relationship was kept a secret from anyone.

9. Upon information and belief, in August of 2013 Respondent placed a number of charges on Mr. Freeman's credit cards. (*See* Exhibit B.) These charges include a charge of \$3,500.00 paid to Respondent's cleaning company, Cheryas'mon Cleaning Consultants of Delaware City. Other charges were made on Mr. Freeman's credit cards totaling an additional \$3,078.02.

ANSWER: Denied that Respondent placed a number of charges of Decedent's credit cards. Admitted that Decedent placed charges on his own credit cards in August of 2013. Admitted that Decedent made a payment to Cheryas'mon Cleaning Consultants, LLC in August of 2013. By way of further answer, Cheryas'mon Cleaning Consultants, LLC is a Delaware entity jointly owned between Respondent and Decedent. By way of further answer, Respondent alleges that Caveator Maryetta Freeman obtained this information by stealing, opening, and viewing the Decedent's mail, in violation of [18 U.S.C. §1702](#).

10. Caveators do not believe that Mr. Freeman had knowledge of these charges or gave consent for such charges to be made by Springs. (*See* Exhibit B.)

ANSWER: Denied. By way of further answer, Caveator Maryetta Freeman's own Affidavit, attached to Caveators' Complaint as Exhibit B, specifically states “[a]fter talking to him about it in detail, I came to the conclusion that he knew who had made the charges. It was Cheryl Springs.”

11. At some time in August 2013 Mr. Freeman fell in his home and was unable to get up. He had been stuck on the floor for approximately two days before his nurse, Rebecca Hopman, and his niece, Marianna Freeman, found him. (*See* Affidavit of Marianna Freeman, Exhibit C.)

ANSWER: Admitted that Decedent fell in his home in August of 2013 and was unable to get up for approximately two days before he was found. Respondent specifically denies any and all allegations contained in Marianna Freeman's Affidavit attached as Exhibit C to Caveators' Complaint.

12. Ms. Freeman and Ms. Hopman called the paramedics and Mr. Freeman was transported to Christiana Hospital. (*See* Exhibit C.)

ANSWER: Respondent is without sufficient information to admit or deny whether Marianna Freeman and Rebecca Hopman called the paramedics. By way of further answer, Marianna Freeman's Affidavit states that they broke Decedent's window and entered his home before they contacted the police and/or paramedics. Admitted that Decedent was transported to Christiana Hospital after his fall in his home. Respondent specifically denies any and all allegations contained in Marianna Freeman's Affidavit attached as Exhibit C to Caveators' Complaint.

13. After a stay at Christiana Hospital, Mr. Freeman was taken to Cadia Rehabilitation Center in Pike Creek, Delaware. (*See* Exhibit C.)

ANSWER: Admitted that Decedent was taken to Cadia Rehabilitation Center in Pike Creek, Delaware after his stay at Christiana Hospital. Respondent specifically denies any and all allegations contained in Marianna Freeman's Affidavit attached as Exhibit C to Caveators' Complaint.

14. During this time, and in the continuing months, Springs continued her relationship with Mr. Freeman and continued to exert control over him.

ANSWER: Admitted that Respondent continued her relationship with Decedent while he was in Cadia Rehabilitation Center. Specifically denied that Respondent exerted control over the Decedent.

15. Mr. Freeman's family became so concerned for his safety and well-being that, in September 2013 they filed an official complaint of **Elder Abuse** with the Division of Service for Aging and Adults with Physical Disabilities. (See Exhibit B.)

ANSWER: Admitted that a complaint was filed with the Delaware Division of Services for Aging and Adults with Physical Disabilities in regards to the Decedent. By way of further answer, the complaint filed by Caveator Maryetta Freeman was investigated by Adult Protective Services and no further action was taken nor were any charges ever brought against Respondent as a result of the complaint.

16. On or about April 2, 2014 a new Will was executed, purportedly by Bobby Freeman, in New Castle Delaware. A copy of that second Will is attached hereto as Exhibit D and incorporated by reference herein.

ANSWER: Admitted.

17. Under the terms of that new purported Will, all of Mr. Freeman's family members are disinherited and two new beneficiaries are named: Respondent Cheryl Springs, and her son, Yamon Ahmad Springs. Suspiciously, in the new Will, Yamon Ahmad Springs is named as the son of Bobby Freeman.

ANSWER: Admitted that Decedent's Will dated April 2, 2014 names Respondent and her son, Yamon Ahmad Springs, as beneficiaries of the Estate. Denied that any language contained in the April 2, 2014 Will is suspicious.

18. The April 2, 2014 Will was notarized by two individuals: Rita Smith, with an address listed as 520 Bancroft Parkway, Wilmington, Delaware; and Edwin Roy Lushbaugh, whose address is listed at 364 E. Main Street, Middletown, Delaware. The new Will was notarized by Andrea Elizabeth Bello.

ANSWER: Admitted that the April 2, 2014 Will was *witnessed* by Rita Smith and Edwin Roy Lushbaugh. Admitted that the Will was notarized by Andrea Elizabeth Bello.

19. On May 2, 2014 Bobby Freeman passed away. A copy of his Death Certificate is attached hereto as Exhibit E and incorporated by reference herein.

ANSWER: Admitted.

20. On or about May 7, 2014 Springs petitioned the Register of Wills of New Castle County for authority to act as personal representative of the Estate of Bobby J. Freeman. A copy of the Adjudication is attached hereto as Exhibit F and incorporated by reference herein.

ANSWER: Admitted.

COUNT I - FRAUD

21. Caveators restate and reincorporate paragraphs 1-20 herein as if set forth in there entirety here.

ANSWER: Respondent restates and reincorporates her answers to paragraphs 1-20 herein as if set forth in there entirety here.

22. Caveators hereby object to the probate of the purported Will dated April 2, 2014 because the signature on that Will is not the signature of Bobby J. Freeman.

ANSWER: Specifically denied that the signature on the Decedent's April 2, 2014 Will is not the signature of Decedent. By way of further answer, the April 2, 2014 Will was admitted to probate by the New Castle County Register of Wills on May 7, 2014.

23. A comparison of the Will dated December 14, 2005 and the Will dated April 2, 2014 reveals that the purported signature of Bobby J. Freeman is vastly different between the two.

ANSWER: Denied. By way of further answer, Respondent does not believe that Caveators are sufficiently skilled, trained, or experienced to distinguish between valid and purportedly invalid signatures of the Decedent.

24. Upon information and belief, the signature on the April 2, 2014 Will purporting to be the signature of Bobby J. Freeman is a forgery and, consequently, the Will dated April 2, 2014 is of no force and effect.

ANSWER: Denied.

COUNT II - LACK OF CAPACITY

25. Petitioners restate and reincorporate paragraphs 1-24 herein as if set forth in their entirety here.

ANSWER: Respondent restates and reincorporates her answers to paragraphs 1-24 herein as if set forth in their entirety here.

26. In the alternative, if the Court finds that the signature on the April 2, 2014 Will is the signature of Bobby J. Freeman, such signature could not have been the product of a sound mind.

ANSWER: Denied.

27. The health and mental capacity of Mr. Freeman had been in decline since his admission to Christiana Hospital and subsequent admission into Cadia Rehab facility.

ANSWER: Denied that Decedent's mental capacity had been in decline since his admission to Christiana Hospital and subsequent admission to Cadia Rehab facility.

28. Caveators assert that the purported Will dated April 2, 2014 is not valid in that Mr. Freeman was not possessed of a sound mind and memory at the time of executing the Will (if the signature on such Will is, in fact, his signature), and, consequently, that he did not possess the necessary testamentary capacity and/or was unduly influenced by Springs to execute the new Will.

ANSWER: Denied.

COUNT III - UNDUE INFLUENCE

29. Caveators restate and reincorporate paragraphs 1-28 herein as if set forth in their entirety here.

ANSWER: Respondent restates and reincorporates her answers to paragraphs 1-28 herein as if set forth in their entirety here.

30. Upon information and belief, Springs exercised undue influence over the decedent, Bobby Freeman, in the following manner in that she took advantage of his advanced age and declining mental and physical health to turn him against his family.

ANSWER: Denied.

31. As a result of undue influence by Springs over Mr. Freeman, the rightful beneficiaries of the Estate of Bobby J. Freeman have been eliminated from Mr. Freeman's estate plan.

ANSWER: Denied as stated.

32. Upon information and belief, Springs exercised undue influence to exploit and influence Mr. Freeman to execute a new Will which bequeathed Mr. Freeman's entire estate to Springs and her son.

ANSWER: Denied.

COUNT IV - CONSTRUCTIVE TRUST

33. Caveators restate and reincorporate paragraphs 1-32 herein as if set forth in their entirety here.

ANSWER: Respondent restates and reincorporates her answers to paragraphs 1-32 herein as if set forth in their entirety here.

34. A constructive trust may be imposed by this Court, in the exercise of its equitable powers, when an individual's fraudulent, unfair, or unconscionable conduct causes that person to be unjustly enriched at the expense of another to whom he owes a duty. [*Adams v. Jankouskas*, Del. Supr. 452 A. 2d 148 \(1982\)](#). Simply stated, this Court will impose a constructive trust “for the purpose of working out right and wrong.” *Id.*

ANSWER: This averment is a conclusion of law to which no answer is required. To the extent that an answer is required, admitted.

35. Caveators seek equitable intervention from this Honorable Court to impose a constructive trust over Caveator's equitable interest in the assets of the estate of Bobby J. Freeman, in order to prevent the unjust enrichment of Springs and her son for her wrongful conversion of Caveator's interest in that property.

ANSWER: This averment is a conclusion of law to which no answer is required. To the extent that an answer is required, denied.

COUNT V - RESCISSION OF TRANSFER OF PROPERTY

36. Caveators restate and reincorporate paragraphs 1-35 herein as if set forth in their entirety here.

ANSWER: Respondent restates and reincorporates paragraphs 1-35 herein as if set forth in their entirety here.

37. As a result of the undue influence exerted by Springs, Mr. Freeman purportedly disinherited his entire family from his estate plan and transferred certain property to Ms. Springs.

ANSWER: Denied as stated.

38. Based on the unconscionable and wrongful conduct of Springs, Caveators should be entitled, in the alternative, to rescission of any transfer or property, either real or personal, in order to restore the parties to the status quo prior to the purported Will dated April 2, 2014.

ANSWER: Denied.

COUNT VI - RESTITUTION

39: Caveators restate and reincorporate paragraphs 1-38 herein as if set forth in their entirety here.

ANSWER: Respondent restates and reincorporates her answers to paragraphs 1-38 herein as if set forth in their entirety here.

40. As a result of her undue influence Springs and her son purportedly wrongfully and unconscionably inherited the entire estate of Bobby J. Freeman.

ANSWER: Denied as stated.

41. Springs' unconscionable and wrongful conduct in obtaining the assets of the estate has caused her to be unjustly enriched to the extent that it would be unconscionable to permit her to retain all legal and equitable interest in the assets of the estate.

ANSWER: Denied.

42. As a result, in the alternative, Caveators should be entitled to restitution to make them whole.

ANSWER: Denied.

AFFIRMATIVE DEFENSES

43. The complaint fails to state a claim upon which relief can be granted.

44. Caveators' claims are barred by reason of unclean hands.

45. Respondent reserves the right to assert any additional affirmative defenses as they become known.

WHEREFORE, Respondent respectfully requests that this Court enter judgment as follows:

- (a) Dismissing the Complaint with prejudice;
- (b) Awarding Respondent her counsel fees and costs incurred in connection with the defense of this Complaint; and
- (c) Granting such other and further relief as the Court deems just and equitable.

FERRY, JOSEPH & PEARCE, P.A.

<<signature>>

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Dated: August 20, 2014

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